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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
Case No. 08-13555-jmp

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In the Matter of:

LEHMAN BROTHERS HOLDINGS, INC. ET AL.

Debtors.

- - - - -x

U.S. Bankruptcy Court  
One Bowling Green  
New York, New York

July 21, 2011  
10:03 AM

B E F O R E:  
HON. JAMES M. PECK  
U.S. BANKRUPTCY JUDGE

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Debtors' One Hundred Twenty-Ninth Omnibus Objection to Claims  
(No Liability Derivatives Claims)

Debtors' One Hundred Fifty-Sixth Omnibus Objection to Claims  
(No Liability Derivatives Claims)

Debtors' One Hundred Forty-Eighth Omnibus Objection to Claims  
(Duplicative of Indenture trustee Claims)

Debtors' One Hundred Forty-Ninth Omnibus Objection to Claims  
(To Reclassify Proofs of Claim as Equity Interests)

Debtors' One Hundred Fiftieth Omnibus Objection to Claims  
(Duplicative Claims)

Debtors' One Hundred Fifty-First Omnibus Objection to Claims  
(No Liability Claims)

Debtors' One Hundred Fifty-Second Omnibus Objection to Claims  
(Amended and Superseded Claims)

Debtors' One Hundred Fifty-Third Omnibus Objection to Claims  
(Settled Derivatives Claims)

1 Debtors' One Hundred Fifty-Fourth Omnibus Objection to Claims  
2 (Settled Derivatives Claims)

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4 Debtors' Sixty-Seventh Omnibus Objection to Claims (Valued  
5 Derivative Claims)

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7 Debtors' One Hundred Third Omnibus Objection to Claims (Valued  
8 Derivative Claims)

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10 Debtors' One Hundred Fifty-Fifth Omnibus Objection to Claims  
11 (Valued Derivative Claims)

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13 Debtors' Fortieth Omnibus Objection to Claims (Late-Filed  
14 Claims)

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16 Debtors' Forty-First Omnibus Objection to Claims (Late-Filed  
17 Claims)

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19 Debtors' One Hundred Twenty-Second Omnibus Objection to Claims  
20 (No Liability Claims)

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22 First Motion of Mark Glasser to Extend Time for Claim

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25 Transcribed by: Shelia Watkins

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16  
17 BY: CRAIG M. PRICE, ESQ.

18  
19  
20 ALSO PRESENT:

21 PAOLA BIRASCHI, In Propria Persona (TELEPHONICALLY)

22 MARK GLASSER, In Propria Persona

23 JAMES K. OPENSHAW, Department of Water Resources State of

24 California (TELEPHONICALLY)

25 GURDIP REHAL, Department of Water Resources State of

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ALSO PRESENT (cont.):

California (TELEPHONICALLY)

DANIELLE TINANT, In Propria Persona (TELEPHONICALLY)

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P R O C E E D I N G S

THE COURT: Be seated, please. Good morning.

MR. BERNSTEIN: Good morning, Your Honor, Mark Bernstein from Weil, Gotshal & Manges on behalf of the Lehman Chapter 11 debtors. We're here today for a claims hearing. We have twelve uncontested items and four contested items on the agenda.

Unlike past hearings, we've ordered the agenda in such a way that we can take them in the order of the items on the agenda this time.

THE COURT: Well, that'll make this less confusing for me.

MR. BERNSTEIN: That was certainly our goal, so I hope so.

THE COURT: I hope. We'll see if we actually achieve it.

MR. BERNSTEIN: (Laughter) Okay. The first item on the agenda is the 129th omnibus to claims. This is a carryover item from a prior hearing.

This relates to derivative contracts for which the debtors have determined that they do not have any liability, and in fact they are likely owed money on these contracts. The objection deadline for HSBC for seven claims that are filed as indentured trustee was extended beyond the initial objection deadline. They have not filed any responses, and their

1 deadline has now passed; therefore, we're going forward today  
2 on an uncontested basis and request Your Honor grant the 129th  
3 with respect to the seven HSBC claims.

4 THE COURT: Okay.

5 MR. BERNSTEIN: The 156 is the same type objection to  
6 derivative contracts, so the debtors believe they're in the  
7 money. The debtors received a number of responses to this  
8 objection. They have adjourned the hearing with respect to all  
9 claims for which we did receive responses. And again, we're  
10 only going forward uncontested, and we respectfully request  
11 Your Honor grant the 156 omnibus objection.

12 THE COURT: It's granted on an uncontested basis.

13 MR. BERNSTEIN: Thank you. At this point, I'm going  
14 to turn the podium over to Erin Eckols.

15 MS. ECKOLS: Good morning, Your Honor.

16 THE COURT: Good morning.

17 MS. ECKOLS: Erin Eckols for the debtors, I'm going to  
18 be handling the uncontested agenda items 3 through 9. Agenda  
19 item 3 is the 148th omnibus objection. It seeks to disallow  
20 and expunge individual noteholder claims that are duplicative  
21 of the claims filed by Wilmington Trust, Bank of New York  
22 Mellon, and/or U.S. Bank National Association as indentured  
23 trustee for certain notes and debentures.

24 The debtors did not receive any responses to the  
25 objection and respectfully request that the Court grant the



1 debtors' 148th omnibus objection.

2 THE COURT: The 148th omnibus objection is granted.

3 MS. ECKOLS: Thank you. Agenda item 4 is the 149th  
4 omnibus objection. It seeks to reclassify as equity interests  
5 proofs of claim that are based on the ownership of stock in the  
6 debtors.

7 Stock is an equity security under the Bankruptcy Code,  
8 and the holders of the stock claims are equity security holders  
9 with interest but not claims against the debtors. Moreover, to  
10 the extent that the holders of the stock claim seek to recover  
11 damages arising from the purchase or sale of their stock,  
12 section 5.10(b) of the Bankruptcy Code requires that those  
13 claims have the same priority as common equity in the Lehman  
14 Brothers Holdings, Inc. The debtors did not receive any  
15 responses to the objection and respectfully request that the  
16 Court grant the debtors' 149th omnibus objection.

17 THE COURT: The 149th omnibus objection is granted.

18 MS. ECKOLS: Your Honor, agenda item number 5 is the  
19 150th omnibus objection. That objection seeks to disallow and  
20 expunge claims that are duplicative either exactly or in  
21 substance of other claims filed by the same claimant on the  
22 claims register. The debtors did not receive any responses to  
23 the objection and respectfully request that the Court grant the  
24 debtors' 150th omnibus objection.

25 THE COURT: The 150th omnibus objection is granted.

1 MS. ECKOLS: Moving to agenda item number 6, this is  
2 the debtors' 151st omnibus objection. It seeks to disallow and  
3 expunge claims for which the debtors have no liability. These  
4 claims either state on their face that they are against an  
5 entity that is not a debtor in these Chapter 11 proceedings,  
6 and/or the supporting documentation establishes that the claim  
7 is against a non-debtor entity.

8 The debtors received one formal response which has  
9 been resolved, and certain claims have been adjourned. The  
10 debtors are proceeding today as to the balance of the claims on  
11 an uncontested basis, and respectfully request that the Court  
12 grant the debtors' 151st omnibus objection.

13 THE COURT: 151st omnibus objection to claims is  
14 granted on an uncontested basis.

15 MS. ECKOLS: Thank you, Your Honor. Agenda item  
16 number 7 is the debtors' 152nd omnibus objection. It seeks to  
17 disallow and expunge claims that were amended and superseded by  
18 subsequently filed claims.

19 The debtors received a statement of no objection by  
20 the Newcastle City Council. The debtors also received two  
21 formal responses, both of which have been adjourned.  
22 Accordingly, the debtors are proceeding uncontested and  
23 respectfully request that the Court grant the debtors' 152nd  
24 omnibus objection.

25 THE COURT: 152nd omnibus objection to claims is

1 granted on an uncontested basis.

2 MS. ECKOLS: Thank you, Your Honor. Moving to agenda  
3 item number 8, which is the debtors' 153rd omnibus objection,  
4 this omni seeks the modification and allowance of claims for  
5 which the parties reach an agreement with respect to the claim  
6 amount, classification, and/or debtor entity that is not  
7 reflected on the claimant's proof of claim. The omnibus  
8 objection is seeking to modify those claims to conform to the  
9 parties' agreement.

10 The debtors did not receive any formal responses, and  
11 all informal responses have been resolved. Accordingly, the  
12 debtors respectfully request that the Court grant the debtors'  
13 153rd omnibus objection.

14 THE COURT: The 153rd omnibus objection to claims is  
15 granted.

16 MS. ECKOLS: Thank you, Your Honor. Moving to agenda  
17 item number 9, this is the debtors' 154th omnibus objection.  
18 It seeks the disallowance and expungement of derivative claims  
19 that have been settled between the parties with either a  
20 payment to the debtors, with no amounts being due between the  
21 parties, or with the claimant being granted a single allowed  
22 claim against certain debtors with a release of all other  
23 claims related thereto. The omnibus objection is seeking to  
24 expunge those derivative claims to effectuate the parties'  
25 agreement.

1           The debtors did not receive any responses to the  
2           objection and respectfully request that the Court grant the  
3           debtors' 154th omnibus objection.

4           THE COURT:   The debtors' 154th omnibus objection is  
5           granted.

6           MS. ECKOLS:   Thank you, Your Honor.   And now I'm going  
7           to turn the podium over to Teresa Brady to complete the  
8           uncontested agenda items for today.

9           THE COURT:   All right.   Thank you.

10          MS. BRADY:   Good morning, Your Honor, Teresa --

11          THE COURT:   Good morning.

12          MS. BRADY:   -- Brady from Weil, Gotshal & Manges on  
13          behalf of the debtors.   I will be addressing agenda items 10,  
14          11, and 12.   Each of these omnibus objections seek to reduce  
15          and allow value derivative claims on a non-consensual basis,  
16          and each of these omnibus objections are going forward  
17          uncontested this morning.

18          Turning to agenda item number 10, this is the sixty-  
19          seventh objection which was filed last year in November  
20          objecting to a 128 claims.   The debtors have successfully  
21          resolved more than half of these claims, and we continue to  
22          attempt to settle the balance of the claims on the sixty-  
23          seventh omnibus objection.   The debtors previously adjourned  
24          the remaining balance of the claims from this omni to next  
25          month's hearing scheduled for August 25th.   But in the last few

1 days, we have successfully resolved two additional claims with  
2 the counterparty Lloyds TSB Bank, and Lloyds has agreed that  
3 the debtors should continue today -- proceed with the two  
4 settled claims on an uncontested basis.

5 We, therefore, respectfully request that Your Honor grant  
6 the sixty-seventh omnibus objection which would reduce and  
7 allow Lloyds TSB claims 17729 and 17730 to their settled  
8 amounts.

9 THE COURT: It's granted.

10 MS. BRADY: Thank you, Your Honor. Turning to agenda  
11 item number 11, this is the 103rd omnibus objection. This  
12 objection was filed on March 14th, 2011 objecting to forty-nine  
13 claims. The debtors have successfully resolved all but six of  
14 these claims, and we had previously adjourned these remaining  
15 outstanding claims until next month's hearing on August the  
16 25th; however, in the last few days, the debtors have also  
17 successfully resolved two additional claims from this omnibus  
18 objection, which were filed by the counterparty Iberdrola  
19 Generación, and this counterparty has agreed that debtors  
20 should proceed today with these two settled claims on an  
21 uncontested basis.

22 We, therefore, respectfully request that Your Honor  
23 grant the 103rd omnibus objection which would reduce and allow  
24 Iberdrola Generación's claim numbers 15112 and 15114 to their  
25 settled amounts.

1 THE COURT: It's granted.

2 MS. BRADY: Thank you, Your Honor. Finally, turning  
3 to agenda item number 12, this is the 155th omnibus objection  
4 which was filed on June 7th, 2011 objecting to forty-two  
5 claims. The debtors have successfully resolved two claims  
6 filed by the counterparty Horizon II International Limited.

7 The debtors are also in ongoing negotiations with a  
8 number of counterparties holding sixteen claims listed in this  
9 omnibus objection, and these claims have been adjourned until  
10 next month's hearing scheduled for August 25th. With respect  
11 to the remaining twenty-four claims on the 155th omnibus  
12 objection, the debtors failed to receive any formal response to  
13 its objection. We, therefore, respectfully request that Your  
14 Honor grant the 155th omnibus objection which would reduce and  
15 allow the settled Horizon II International Limited claims, and  
16 which would reduce and allow the remaining twenty-four claims  
17 for which no timely response was received.

18 THE COURT: The 155th omnibus objection to claims is  
19 granted on an uncontested basis. Thank you.

20 MS. BRADY: Thank you, Your Honor. Unless Your Honor  
21 has any further questions, I'd like to turn the podium back  
22 over to my colleague, Erin Eckols.

23 THE COURT: I have no further questions. Thank you.

24 MS. ECKOLS: Your Honor, Erin Eckols again for the  
25 debtors. I'm going to be handling the contested agenda items

1 13, 14, and 15. Agenda items 13 and 14 are carryover items  
2 from the fortieth and forty-first omnibus objections, which  
3 both sought to disallow and expunge claims that were filed  
4 after the September 22nd, 2009 bar date. Because these agenda  
5 items presented the same issue, I plan to address them together  
6 unless Your Honor has an objection.

7 THE COURT: No objection.

8 MS. ECKOLS: Today the debtors are proceeding as to  
9 six claims on the fortieth omnibus objection and two claims on  
10 the forty-first omnibus objection. The claims at issue are set  
11 forth on Exhibit A to the reply brief filed by the debtors at  
12 docket entry 18589. As Your Honor has recognized in prior  
13 decisions, enforcement of the bar date in these Chapter 11  
14 cases is critically important.

15 Here strict application of the bar dates is warranted,  
16 and the eight claims at issue should be disallowed and expunged  
17 as untimely. The claims were sent internationally from Canada  
18 via first class mail only four calendar days before the bar  
19 date. The claimants provided no legal argument as to why their  
20 claims should be exempted from the Court-ordered deadline.  
21 Instead, the claimants assert that their claims should be  
22 deemed timely because they were put into the mail prior to the  
23 bar date. This argument fails under the clear dictates of the  
24 bar date order which unambiguously provided that claims must be  
25 received on or before the bar date. Simply dropping the claim

1 in the mail is not sufficient under the bar date order.

2 The claimants' argument that postmarking their claim  
3 before the applicable bar date renders their claim timely also  
4 fails under the governing case law. Importantly, the claimants  
5 have not set forth an excusable neglect argument under  
6 bankruptcy rule 9006(b) or analyze the pioneer factors. The  
7 claimants have the burden of establishing excusable neglect,  
8 and they have not and cannot meet that burden; however, the  
9 debtors have addressed the excusable neglect standard in their  
10 reply brief, and as set forth therein the claimants cannot  
11 satisfy the high bar for excusable neglect followed in the 2nd  
12 Circuit.

13 The four factors established under pioneer for  
14 applying the excusable neglect standard include the danger of  
15 prejudice to the debtors; the length of delay and its potential  
16 impact on judicial proceedings; the reason for the delay  
17 including whether it was within the reasonable control of the  
18 claimant; and whether the movant acted in good faith. Each of  
19 the pioneer factors is briefed in the debtors' reply, but today  
20 I wanted to focus the -- on the most important factor which is  
21 the reason for the delay.

22 The key consideration is whether the untimeliness was  
23 within the claimants' control. Here the untimeliness was  
24 entirely within the claimants' control, and was a result of the  
25 claimant's decision to wait until four days prior to the bar



1 date to mail their claims internationally from Canada, and to  
2 select first class mail, the slowest class of mail, without any  
3 guaranteed window of delivery. Given the claimants' delay in  
4 mailing the claims, and the selection of a slow delivery  
5 method, they could not have reasonably expected that their  
6 claims would arrive from Canada on or before the bar date,  
7 particularly in light of the guidance provided by the Canadian  
8 postal service.

9 The Canadian postal service provides on its website  
10 general guidelines for the expected time it will take for first  
11 class mail to arrive in the United States. These guidelines,  
12 which are not guaranteed, state that it will generally take  
13 between four and six business days for first class mail to  
14 reach the United States. These claimants waited until two  
15 business days, or four calendar days, prior to the bar date to  
16 mail their claims, and under the information provided by the  
17 Canadian post office, they should not have reasonably expected  
18 their claims to arrive in the United States timely.

19 Because the untimeliness of the claims was entirely  
20 within the claimants' control, they do not need the high bar  
21 established for claiming excusable neglect. The claimants  
22 could have mailed their claims sooner; they could have chosen a  
23 faster class of mail service, or they could have used a service  
24 with a guaranteed delivery window, such as UPS, DHL, FedEx.  
25 They chose not to do so. Accordingly, the debtors respectfully

1 request that the fortieth and forty-first omnibus objections be  
2 granted as applicable to the claim set forth on Exhibit A to  
3 the debtors' reply brief.

4 THE COURT: Are any of the claimants in Court or on  
5 the telephone who wish to be heard?

6 MS. BIRASCHI: Yes.

7 THE COURT: If you wish to be heard, you're going to  
8 have to speak up.

9 MS. BIRASCHI: Thank you, Your Honor. My name is  
10 Paola Biraschi, and I would like to oppose disallowance of my  
11 claim, number 34980, which was received after the 22nd of  
12 September 2009 bar date. I posted my letter from the UK, and  
13 my understanding is that the courts in England and Wales  
14 recognize that the sequences in delays can occur in the postage  
15 of documents which are out of the control of the person sending  
16 documents to another. They recognize the need for uncertainty,  
17 and have developed rules about when documents should be deemed  
18 to be not be delivered. The rules are specific to provisions  
19 which deal with the issue of delayed delivery. The general  
20 position is that delivery is deemed to have been affected at  
21 the time the letter will be delivered in the order and course  
22 of post.

23 I posted my letter in Canary Wharf near Lehman  
24 Brothers offices in London, and I was told by the post office  
25 clerk that the letter would arrive by the 22nd of September,

1 2009. I therefore, in good faith, expected the letter to  
2 arrive on time. Now with insight and if I were ever in this  
3 situation again, I should have arranged for a courier to  
4 deliver the documents, or send them by registered post.

5 My faith in the UK post office was clearly misplaced.  
6 I had no control over how efficiently the post office delivered  
7 my letter. I had no reason to think my letter would not arrive  
8 on time.

9 Not to allow me to be listed as one of the creditors,  
10 and therefore potentially receive some funds would seem to be  
11 unjustly punishing me for the vagaries of the U.K. post office  
12 over which I had absolutely no control. I, therefore, would  
13 like to oppose the disallowance of my claim.

14 THE COURT: All right. Thank you. Let me just ask if  
15 there is anyone else who is appearing by telephone who wishes  
16 to be heard on the subject of late delivery of claims.

17 I hear no further response. I'll give the debtors'  
18 lawyer an opportunity to respond to the argument that was just  
19 made.

20 MS. ECKOLS: Thank you, Your Honor. I caught that  
21 individual's claim number, 34980, but unfortunately was not  
22 able to catch their name, but that claim is actually not up  
23 today, and is not part of the debtors' reply brief. It's not  
24 in any one of the claims that I was discussing today.

25 THE COURT: Well, you have a preview of her argument,

1 then.

2 MS. ECKOLS: I do.

3 THE COURT: Is there an omnibus objection that relates  
4 to claim 34980?

5 MS. ECKOLS: My suspicion is that there is one and  
6 that it is probably one that was on the fortieth or forty-first  
7 omnibus objection that has been adjourned.

8 THE COURT: All right. Since it is not a matter  
9 that's actually ripe for adjudication today, I'll take no  
10 position with respect to the argument that has just been made,  
11 and recognize that the individual claimant who is participating  
12 in this hearing from London will be making the same argument  
13 presumably next time. It may be of some use for debtors'  
14 counsel to obtain contact information for this individual to  
15 see if either an agreement can be reached or some understanding  
16 can be reached regarding the treatment of this claim. I say  
17 that only because, for all practical purposes, the individual  
18 involved has presented her argument. I know what the debtors'  
19 response is to that argument because it is the same substantive  
20 argument that has been made in reference to the claims that are  
21 on for today, but I would like to avoid the inconvenience to  
22 this individual of having to participate in another contested  
23 hearing if that's possible.

24 MS. ECKOLS: I understand, Your Honor.

25 THE COURT: So I am not ruling today with respect to

1 claim number 34980, but I am treating the fortieth omnibus,  
2 objection to claims and the forty-first omnibus objection to  
3 claims with respect to those claims that have been identified  
4 for today's hearing as uncontested, and I am granting both of  
5 the objections.

6 MS. ECKOLS: Thank you, Your Honor. Moving onto  
7 agenda item number 15, which is carryover item from the  
8 debtors' 122nd omnibus objection, the 122nd omnibus objection  
9 seeks to disallow and expunge claims for which the debtors have  
10 no liability as evidence on the face of the claim, or by the  
11 supporting documentation submitted therewith. Today the  
12 debtors are proceeding as to claim 10931 submitted by Orestes  
13 Lugo, and are seeking to expunge the portion of Mr. Lugo's  
14 claim that is seeking to recover for securities with ISIN  
15 number U.S. 524908be79. That security was identified as being  
16 issued by Lehman Brothers, Inc. which is not a debtor in these  
17 Chapter 11 proceedings, but is subject to a separate  
18 liquidation proceeding under the Securities Investor Protection  
19 Act.

20 Mr. Lugo submitted a response to the debtors'  
21 objection, but it provides no legal argument or basis for  
22 denying the relief sought. Mr. Lugo does not address or  
23 dispute that the portion of the claim that the debtors are  
24 seeking to expunge is for a security issued by LBI.  
25 Accordingly, the debtors do not have liability for the portion

1 of Mr. Lugo's claim seeking to recover for the securities with  
2 number U.S.524908BE79, and respectfully request that the Court  
3 grant the 122nd omnibus objection to expunge that portion of  
4 the claim.

5 THE COURT: Let me inquire if Mr. Lugo is present in  
6 Court or on the telephone.

7 I hear no response. I did read the papers filed by  
8 Mr. Lugo, which include a reference to the circumstances  
9 surrounding his purchase of the security and certain statements  
10 made by employees of Lehman that induced him, according to his  
11 letter, to hold onto the securities notwithstanding some of his  
12 concerns about the financial condition of Lehman Brothers. The  
13 letter does not amount to a legally cognizable response to the  
14 objection, which is an objection predicated upon there being no  
15 liability for this claim.

16 As a result, I overrule the response of Mr. Lugo to  
17 the extent it is deemed a formal objection to the disallowance  
18 of his claim, and I grant the debtors' 122nd omnibus objection  
19 as it relates to Mr. Lugo's claim.

20 MS. ECKOLS: Thank you, Your Honor. And now I am  
21 going to turn the podium over to Mark Bernstein to take up the  
22 last contested agenda item.

23 THE COURT: All right.

24 MR. BERNSTEIN: Your Honor, Mark Bernstein again from  
25 Weil on behalf of the Lehman debtors. The last item on the

1 agenda is the evidentiary hearing that Mr. Glasser had  
2 requested with respect to a motion that he had filed a while  
3 back seeking to -- seeking leave to file a late claim in these  
4 cases. We had an initial hearing on his motion, and Your Honor  
5 granted him leave to seek an evidentiary hearing. I believe  
6 Mr. Glasser is in the Courtroom today and is ready to proceed  
7 on the -- with an evidentiary hearing with respect to his  
8 motion.

9 THE COURT: Mr. Glasser, why don't you come forward.

10 Before we proceed, let me just review with you and  
11 with debtors' counsel the procedural history, and see how we're  
12 going to proceed today. At the last omnibus claims hearing, I  
13 granted a motion of your counsel to withdraw as counsel. That  
14 was unopposed by you. And I take it that at this moment you do  
15 not have an attorney to represent you, is that correct?

16 MR. GLASSER: No, I do not

17 THE COURT: Do you have any desire to retain an  
18 attorney?

19 MR. GLASSER: At this point, no, unless you recommend  
20 it.

21 THE COURT: I always recommend having counsel if a  
22 party can afford it or can obtain counsel through pro bono  
23 legal services. Parties are almost always better represented  
24 in court by a lawyer than they are able to represent  
25 themselves. But I take it that you prefer at this point to

1 proceed on your own, is that correct?

2 MR. GLASSER: I guess so, Your Honor.

3 THE COURT: All right. What is it that you wish to  
4 present in terms of evidence, and are you prepared to do that  
5 today?

6 MR. GLASSER: I believe so.

7 THE COURT: All right. Well, you're going to be in  
8 the awkward position, then, of having to be sworn, get on the  
9 witness stand, and expose yourself to cross-examination, and to  
10 present what you believe to be relevant evidence in support of  
11 your position. Are you prepared to do that?

12 MR. GLASSER: May I ask for an adjournment? I'm not  
13 positive. I think I am, but I'm not sure. I mean I'm a little  
14 bit -- you know, a little bit confused because I'm not familiar  
15 with all these procedures.

16 THE COURT: I don't want you to be at a disadvantage,  
17 but I'm going to note that this matter has been adjourned on  
18 repeat occasions --

19 MR. GLASSER: Yes.

20 THE COURT: -- and represents one of the oldest  
21 unresolved claims objections on our docket. I'm going to give  
22 you an opportunity to better prepare yourself for what is to  
23 happen here by adjourning this to the August 25 omnibus claims  
24 hearing. Will you be in New York then?

25 MR. GLASSER: Yes, I will. I'll make sure.



1 THE COURT: Fine. You have a choice: you can either  
2 proceed at that point, or if you decide not to proceed, the  
3 objection to your claim will be granted.

4 MR. GLASSER: Okay.

5 THE COURT: So it's your burden to demonstrate why it  
6 is that your claim notwithstanding the fact that it is late  
7 should nonetheless be allowed.

8 MR. GLASSER: Your Honor, with all due respect, some  
9 of the delays were due to health matters. I had bypass surgery  
10 last year in July and I was not available.

11 THE COURT: The issues surrounding the adjournments  
12 that have taken place today are unrelated to the substance to  
13 be presented. The substance goes to the entitlement that you  
14 alleged to file a late claim based upon excusable neglect. and  
15 the standards for that have been well-established in case law  
16 and in earlier hearings. I know you don't have lawyers  
17 representing you, but you're going to need to demonstrate how  
18 as an employee of Lehman -- and I understand that you  
19 transferred to Barclays?

20 MR. GLASSER: Yes.

21 THE COURT: You did not know about the bar date for  
22 purposes of complying with the filing of a claim, particularly  
23 since, as I recall the papers, you had an apartment at which  
24 mail was received on your behalf at various times. It makes  
25 the problems of proof fairly significant from your perspective,

1 so do the best you can in preparing, and we'll hear from you  
2 again on August 25.

3 MR. GLASSER: Ten o'clock in the morning, this Court?

4 THE COURT: We start at ten o'clock.

5 MR. GLASSER: Okay.

6 THE COURT: And we'll see you at that time.

7 MR. GLASSER: Thank you very much.

8 THE COURT: We'll adjourning until then.

9 (Whereupon these proceedings were concluded at 10:31 AM)

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C E R T I F I C A T I O N

I, Shelia Watkins, certify that the foregoing transcript is a  
true and accurate record of the proceedings.

Shelia  
Watkins

Digitally signed by Shelia Watkins  
DN: cn=Shelia Watkins, c=US, o=Veritext  
Reason: I am the author of this document  
Date: 2011.07.22 15:47:11 -04'00'

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Date: July 21, 2011